



**6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 281**

**[EPA-R08-UST-2018-0728; FRL-9986-99-Region 8]**

#### **North Dakota: Authorization of State Underground Storage Tank Program Revisions**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is proposing to approve revisions to the State of North Dakota's Underground Storage Tank (UST) program submitted by the State. This action is based on the EPA's determination that the State's revisions satisfy all requirements for UST program approval. The State's federally-authorized UST program, as revised pursuant to this action, will remain subject to the EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA subtitle I and other applicable statutory and regulatory provisions. All revisions to the State of North Dakota's UST program would be federally approved as of the effective date of this action.

**DATES:** Send written comments by **[insert date 30 days after date of publication of Federal Register document]**.

**ADDRESSES:** Submit your comments by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
2. Email: [bents.benjamin@epa.gov](mailto:bents.benjamin@epa.gov)

3. Mail: Benjamin Bents, Project Officer, UST, Solid Waste and PCB Unit, Resource Conservation and Recovery Program, Office of Partnerships and Regulatory Assistance (8P-R), EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129.
4. Hand delivery or courier: Deliver your comments to Benjamin Bents, Region 8, Project Officer, UST, Solid Waste and PCB Unit, Resource Conservation and Recovery Program, Office of Partnerships and Regulatory Assistance (8P-R), EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

*Instructions:* Direct your comments to Docket ID No. EPA-R08-UST-2018-0728. The EPA's policy is that all comments received will be included in the public docket without change and may be available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov>, or email. The federal <http://www.regulations.gov> website is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical

difficulties, and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

You can view and copy the documents that form the basis for this action and associated publicly available materials from 8:30 a.m. to 4:00 p.m., Monday through Friday at the following location: EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129, phone number (303) 312–6435. Interested persons wanting to examine these documents should make an appointment with the office at least 2 days in advance.

**FOR FURTHER INFORMATION CONTACT:** Benjamin Bents, Project Officer, UST, Solid Waste and PCB Unit, Resource Conservation and Recovery Program, Office of Partnerships and Regulatory Assistance (8P-R), EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129, phone number (303) 312-6435, email address: *Bents.Benjamin@epa.gov*.

**SUPPLEMENTARY INFORMATION:** The State of North Dakota adopted state Senate Bill No. 2327 (S.L. 2017, ch. 199, § 75) which separated the Environmental Health Section from the North Dakota Department of Health (NDDOH) to create a stand-alone North Dakota Department of Environmental Quality (NDDEQ). Per S.L. 2017, ch. 199, Section 75, the transfer of authority, power, and duties related to environmental quality from NDDOH to NDDEQ will become effective upon the North Dakota Legislative Council's receipt of the certification by the Chief of the Environmental Health Section of the State Department of Health attesting that all necessary federal approvals have been obtained and all necessary federal and other agreements have been amended to ensure the State will continue to meet the authorization requirements it currently satisfies after the transfer of authority, powers, and duties from the NDDOH to the

NDDEQ. This rule constitutes the EPA approval of the transfer of all duties and responsibilities of the State relating to the existing federal UST program in North Dakota from the NDDOH to the NDDEQ.

The State plans to rely on the date when the EPA signs the final rule for purposes of notifying the state legislature that the EPA has approved these revisions, which will provide for the transfer of authority to implement the federal UST program from the NDDOH to NDDEQ to be effective under state law. The EPA understands that the State intends to take the necessary additional steps as specified in S.L. 2017, ch. 199, Section 75, to ensure that NDDEQ comes into existence and that the NDDEQ rules are effective as a matter of state law prior to the effective date of the EPA's approval of these revisions. Unless and until the NDDEQ rules and agency become fully effective under federal law, for purposes of federal law the EPA recognizes the State's program as currently approved. For additional information, see the direct final rule published in the "Rules and Regulations" section of this issue of the **Federal Register**.

**Authority:** This rule is issued under the authority of Sections 2002(a), 7004(b), and 9004 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6991c, 6991d, and 6991e.

#### **List of Subjects in 40 CFR Part 281**

Environmental protection, Administrative practice and procedure, Hazardous substances, State program approval, and Underground storage tanks.

Dated: December 13, 2018.

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Douglas Benevento,  
Regional Administrator,  
Region 8.